

AMENDMENT

U.S. Application No. 10/565,944

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IN THE DRAWINGS:

Please accept the attached two (2) sheets of "Substitute Drawings" for those originally filed.

REMARKS

By the foregoing Amendment Applicants affirm the provisional election of the Group I invention and has cancelled the claims to the Group II, *i.e.* claims 5-16, but expressly reserve their rights to file one or more divisional application(s) claiming the benefits afforded by 35 U.S.C. 119, 120 and 121.

Even though claims 19-23 are withdrawn from further consideration as being non-elected species, Applicants have amended claim 1-4 and 18-23 adopting the Examiner's suggestion that the stretchable collagen material is an "isolated stretchable collagen material" thereby mooted the previous rejection of these claims under 35 U.S.C. 101.

In addition, Applicants have amended independent claim 1 to make it clear that the isolated stretchable collagen has a breaking elongation of at least 150%, which is supported by the examples *e.g.* as founded in the original Specification beginning at page 26, line 24 and continuing on to page 27, line 9 and in the accompanying drawings Figures. Accordingly, the foregoing Amendment does not raise the issue of new matter and further distinguishes the claims as statutory subject matter.

The previous rejection of claim 17 under 35 U.S.C. 112 is deemed moot in view of its cancellation.

Reconsideration and withdrawal of the rejection of claims 1-4, and 18 under 35 U.S.C. 102(b) has being anticipated by Andre et al. (U.S. 6,541,023), as evidenced by Ohyabu et al. (U.S. 4,275,084) is respectfully requested.

Although collagen and tissues, typically represented by those from the skin, are stretchable as shown by Ohyabu et al., materials of collagen isolated from living tissues for medical purposes however, are poor in stretchability. In order to ensure safety, collagen used in cosmetics and medical products are isolated from living tissues and therefore those materials should not be compared with living collagen tissues containing many impurities. Although, some stretchable collagen materials produced by isolation have been developed so far, the

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collagen material according to the present invention is particularly excellent in the property of stretchability. Accordingly, the novelty of the present invention is by no means to be denied by the Ohyabu reference as it does not contain a teaching of all limitations of the claim *i.e.* “isolated stretchable collagen material having a breaking elongation of at least 150%”.

Neither does Andre et al. contain a teaching anticipating the claimed invention.

The collagen described in this reference is not stretchable and no description about properties of the collagen gel is found there. Although, that the Examiner states that the collagen cross-linking agent used in the references is the same with as used in the present invention, the reference does not describe any details of production of the collagen gel of the present invention and thus, there is not only a lack of enablement for producing the product of the claimed invention but it is not inherent that Andre et al. would produce an isolated stretchable collagen gel having a breaking elongation of at least 150%. Accordingly, Applicants respectfully submit that the Examiner has failed to establish a rejection of anticipation even under the PTO's Guidelines as set forth in MPEP §2131.

Accordingly, withdrawal of the rejections and passage of the application to issue is respectfully requested.

Applicants attach “Replacement Sheets” showing Figures 1-4 to be substituted for those filed in the original application.


Applicants reminds the Examiner that as this Application is a U.S. National Stage of an International Application the drawing disclosure should have been compared to the original filed drawings in the PCT Application and not the photocopies submitted during the national stage entry.

However, notwithstanding the same, Applicants are providing “Replacement Sheets” depicting Figures 1-4 to be substituted for the original drawings filed in this Application.

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Having fully responded to the preceding Office Action a prompt Notice of Allowance is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'TPP', with a long horizontal flourish extending to the right.

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TPP/mvj
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